

2024:PHHC:108103



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-18754-2022 (O&M)
Date of decision : 22.08.2024

KARAMJIT SINGH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. D.P. Chahal, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

Mr. Jimmy Singla, Advocate
for respondent No.4.

HARSH BUNGER, J. (ORAL)

Petitioner (Karamjit Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India seeking a writ in the nature of *certiorari* for setting aside the impugned order dated 07.07.2022 (Annexure P-9) passed by learned Financial Commissioner, Haryana, Chandigarh, whereby the order dated 03.09.2019 (Annexure P-7) passed by the Commissioner, Hisar Division, Hisar, appointing respondent No.4-Hardip Singh, has been upheld.

1.1 A further prayer has been made for setting aside the order dated 03.09.2019 (Annexure P-7) passed by the learned Commissioner, Hisar, whereby the Collector's order dated 26.12.2018 appointing petitioner as the Lambardar was set aside and respondent No.4 (Hardip Singh) was

appointed as the Lambardar (general category) of Village Padarth Khera, Tehsil Narwana, District Jind.

2. Briefly, upon the demise of Sh. Pyara Singh, previous Lambardar of Village Padarth Khera, Tehsil Narwana, District Jind, the proceedings were initiated for filling up the vacant post of Lambardar of the aforesaid village. After due proclamation for the aforesaid post of Lambardar, four applications were received (including the application submitted by the present petitioner-Karamjit Singh and respondent No.4-Hardip Singh). Ultimately, only two candidates were left in the fray for the appointment of Lambardar in village Padarth Kehra. After verifying the antecedents of the candidates from the local police, the learned Collector, Jind appointed the petitioner as Lambardar vide his order dated 04.12.2017 (Annexure P-2). Thereafter, respondent No.4 preferred an appeal before the learned Commissioner, Hisar Division, Hisar, who vide his order dated 30.03.2018 remanded the case to the learned Collector, Jind for fresh decision after reconsidering the merits and demerits of both the candidates and also to look into their criminal antecedents. On remand, the Collector, Jind again appointed the petitioner as Lambardar vide his order dated 26.12.2018 (Annexure P-5).

2.1 Aggrieved against the afore-said order dated 26.12.2018 (Annexure P-5) passed by the learned Collector, Jind, respondent No.4 preferred an appeal before the learned Commissioner, Hisar Division, Hisar, who vide his order dated 03.09.2019 (Annexure P-7) allowed the appeal filed by respondent No.4 by setting aside the order dated 26.12.2018 (Annexure P-5) passed by the learned Collector, Jind and appointed respondent No.4-Hardip Singh as the Lambardar of the said Village.

2.2 Thereafter, the petitioner preferred a revision petition (ROR-46-2019) before the learned Financial Commissioner, Haryana, Chandigarh, which came to be dismissed vide order dated 07.07.2022 (Annexure P-9).

3. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court, for the relief, as noticed here-in-above.

4. Learned counsel for the petitioner submits that the learned Collector, Jind, vide his order dated 26.12.2018 (Annexure P-5) had rightly appointed the petitioner as *Lambardar* of village Padarth Khera, after having seen the comparative merits and demerits of both the candidates. However, the learned Commissioner, Hisar has erred in law and fact in passing the impugned order dated 03.09.2019 (Annexure P-7), without considering the well settled position in law that the choice of Collector is not to be lightly interfered with, unless there is any patent illegality or perversity therein. It is submitted that respondent No.4 has been wrongly appointed as *Lambardar*, without considering the better merits of the petitioner. It is stated that the petitioner was a grandson of deceased Lambardar and was appointed as acting (Sarbarah) Lambardar of Village Padarth Khera on 23.08.2008 and he had worked for more than nine years on the post of Lambardar, which fact has not been considered by the learned Commissioner, Hisar as well as learned Financial Commissioner, Haryana. It is next submitted that the learned Commissioner as well as the learned Financial Commissioner, have failed to take into account the relevant factors for appointment of Lambardar as envisaged under Rule 15 of the Haryana Land Revenue Rules. It is also contended that the learned Commissioner, had no authority to appoint the Lambardar as the same is

only the prerogative of the learned Collector. Accordingly, it is prayed that the impugned order(s) be set aside and the Collector's order dated 26.12.2018 (Annexure P-5), appointing the petitioner as *Lambardar* of Village Padarth Khera, Tehsil Narwana, District Jind, be restored.

5. Per contra, learned counsel for respondent No.4, has opposed the submissions made on behalf of the petitioner. It is submitted that the learned Commissioner, Hisar Division, Hisar has appointed respondent No.4 as *Lambardar* after considering the relative merits and de-merits of the candidates and the said appointment has been further upheld by the learned Financial Commissioner, therefore, there is no scope for any interference in the impugned orders. It is further submitted that respondent No.4 has better merits than the petitioner, inasmuch as that respondent No.4 is younger in age and is more educated than the petitioner. It is next submitted that the Appellate Authority as well as the Revisional Authority can pass the same order as passed by the learned Collector and in this regard, reliance is placed upon a judgment of Division Bench of this Court in the case of *Tak Ram v. Financial Commissioner (Revenue), Haryana; 1998 (3) RCR (Civil) 90*. Accordingly, prayer for dismissal of the writ petition has been made.

6. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

7. In the present case, the petitioner was appointed as *Lambardar* by the learned Collector, Jind; however, on appeal filed by respondent No.4, the Collector's order was set aside and respondent No.4 was appointed as *Lambardar* of the village. The learned Commissioner's order has been further upheld by the learned Financial Commissioner, by

observing as under :-

“I have perused the record of the case and heard the Counsels of both the parties. The Assistant Collector, 2nd Grade, Narwana and the Assistant Collector, 1st Grade, Narwana both had recommended the name of the Respondent for appointment as Lambardar of village Padarth Khera, Tehsil Narwana, District Jind. The Collector, Jind appointed Karamjit Singh the Revisionist as Lambardar of the village on the grounds that he is grandson of the deceased Lambardar, has better experience due to his age, having served as Sarbara Lambardar and his evaluation on the basis of revenue/rural knowledge. The Commissioner, Hisar Division, Hisar set aside the order of the Collector Jind and appointed Hardeep Singh, Respondent as Lambardar of the village on the ground of he being younger and better educated.

From the record, it is evident that the Respondent is younger in age to the Revisionist. Also, he has higher educational qualification as he is 12th pass whereas the Revisionist is only 10th pass. Further, as per the ruling of the Hon’ble Supreme Court in Mahavir Singh Vs Khiali Ram and others 2009(3) SCC 439 age is one of the relevant considerations in the appointment of Lambardar and the younger candidate should be preferred. It is also a settled law that the hereditary claim and consequent experience as Sarbara Labardar should be considered only when the qualifications of both the candidates are similar. However, in the present case, land holding of both the candidates is similar but the Respondent has better educational qualifications and is younger in age and, therefore, the hereditary claim of the Revisionist cannot be considered according to the law laid down by the Hon’ble Punjab & Haryana High Court from time to time. Therefore, I am of the opinion that the Collector, Jind has erred in appointing the Revisionist as the Lambardar of the village and the Commissioner, Hisar Division, Hisar has rightly set aside the order of the Collector, Jind and appointed

the Respondent as the Lambardar of the village. I do not find any grounds for interference in the order dated 03.09.2019 passed by the Commissioner, Hisar Division, Hisar.”

7.1 From the above extracted order passed by the learned Financial Commissioner, Haryana, it is evident that respondent No.4 is younger in age than the petitioner and he has higher educational qualification being 12th pass whereas the petitioner is only 10th pass. Furthermore, the name of respondent No.4 was also recommended by the lower Revenue Officers.

7.2 In ***Mahavir Singh v. Khiali Ram and Others, 2009(1) RCR (Civil) 757***, Hon'ble Supreme Court held that with regard to the appointment of a *Lambardar* in the State of Punjab, age of a candidate is a relevant factor. As far as the recommendations by the lower Revenue Officer is concerned, although, the Collector is not bound by the recommendation made by the Revenue Authorities in favour of a candidate; however, due consideration is to be accorded to such recommendations as they are in a position to assess the suitability of a candidate and such recommendation would have some persuasive value. In this regard, reference can be made to the observations made in the case of ***Hakam Singh vs Financial Commissioner (Revenue), Punjab, 2016(4) RCR (Civil) 335*** and ***Atma Singh vs The Financial Commissioner, Revenue, Punjab, 2016(1) LAR 592***.

7.3 Considering the totality of circumstances, I am of the considered view that respondent No.4 has a clear edge over the petitioner.

8. Further, as regards the plea of the petitioner that he has gained experience by having work as Sarbarah Lambardar, in my considered view, if such plea is accepted by giving preference to a Sarbarah Lambardar, it would, in essence, amount to giving preference to hereditary claim, when

otherwise the provisions in respect of hereditary claim has been held to be *ultra vires* to the provisions of the Constitution of India, by a Division Bench of this Court in “**Karnail Singh vs State of Haryana etc.**” 1973 PLJ 676.

9. Still further, as regards the jurisdiction/competence of the Appellate Authority and the Revisional Authority to appoint Lambardar is concerned, a Division Bench of this Court in **Tak Ram v. Financial Commissioner (Revenue), Haryana; 1998 (3) RCR (Civil) 90**; has held as under:-

“...The other contention of the learned counsel that the Commissioner or the Financial Commissioner had no jurisdiction to select a Village Headman-cum-Lambardar again cannot be accepted. The appellate or the Revisional Authority has a right to pass the same order that can be passed by the Collector. Thus the selection of Village Headman-cum-Lambardar by the Financial Commissioner cannot be set aside on that ground..”

9.1 Furthermore, in **Gurnam Ram v. Financial Commissioner, Punjab, 2005(2) RCR (Civil) 553**; Hon'ble Supreme Court of India, while dealing with a case of appointment of Lambardar, has observed that if Financial Commissioner was dissatisfied with the Commissioner's reasoning, no doubt it was open to the Financial Commissioner to redécide the matter on merits; accordingly, the matter was remanded back to the Financial Commissioner for redéciding the issue.

10. In view of the afore-mentioned facts and circumstances, it is concluded that the learned Financial Commissioner, has rightly upheld the order passed by the learned Commissioner, appointing respondent No.4 as *Lambardar* of Village Padarth Khera, Tehsil Narwana, District Jind. Accordingly, there is no scope for any interference by this Court in the

impugned orders. Resultantly, the instant writ petition fails and the same is accordingly dismissed.

11. All pending application(s), if any, shall also stand closed.

August 22, 2024
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No